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5 *Georges Antoun, Kevin A. DeNuccio, Hugh Gallagher, Sarita James, Jay Leupp, Doug Mellinger,*
6 *Merrick Okamoto, Said Ouissal, Simeon Salzman, and Fred Thiel, and Nominal Defendant*
Marathon Digital Holdings Inc.

7 [Additional Counsel on Signature Block]

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9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 STEVE HOOD, derivatively on behalf of
MARATHON DIGITAL HOLDINGS, INC.,

11 Plaintiff,

12 v.

13 FREDERICK G. THIEL, MERRICK
14 OKAMOTO, SIMEON SALZMAN, HUGH J.
GALLAGHER, GEORGES ANTOUN, KEVIN
15 A. DENUCCIO, SARITA JAMES, JAY
LEUPP, SAID OUISSAL and DOUG
16 MELLINGER,

17 Defendants,

18 and

19 MARATHON DIGITAL HOLDINGS, INC.,

20 Nominal Defendant.

21 GARY KONIGSBERG, derivatively on behalf
of MARATHON DIGITAL HOLDINGS, INC.,

22 Plaintiff,

23 v.

24 FRANK G. THIEL, MERRICK OKAMOTO,
25 SIMEON SALZMAN, HUGH J.
GALLAGHER, GEORGES ANTOUN, KEVIN
26 A. DENUCCIO, SARITA JAMES, JAY
LEUPP, SAID OUISSAL, and DOUG
27 MELLINGER,

28 Defendants,

Case No.: 2:23-cv-01055-RFB-BNW

**STIPULATION AND [PROPOSED]
ORDER CONSOLIDATING RELATED
ACTIONS**

Case No.: 2:23-cv-01075-CDS-DJA

1 and
2 MARATHON DIGITAL HOLDINGS, INC.,
3 Nominal Defendant.

4
5 **WHEREAS**, on July 8, 2023, plaintiff Steve Hood filed a shareholder derivative action on
6 behalf of Nominal Defendant Marathon Digital Holdings, Inc. (“Marathon” or the “Company”) in
7 this Court making claims for breaches of fiduciary duty, unjust enrichment, waste of corporate assets,
8 and violations of Sections 14(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”)
9 against defendants Georges Antoun, Kevin A. DeNuccio, Hugh Gallagher, Sarita James, Jay Leupp,
10 Doug Mellinger, Merrick Okamoto, Said Ouissal, Simeon Salzman, and Fred Thiel (collectively, the
11 “Defendants”), and for contribution under Sections 10(b) and 21D of the Exchange Act against
12 certain of the Defendants, captioned *Hood v. Thiel et al.*, Case No. 2:23-cv-01055-RFB-BNW (the
13 “*Hood*” Action”) (*Hood* Action ECF No.1);

14 **WHEREAS**, on July 12, 2023, plaintiff Gary Konigsberg (together with plaintiff Steve Hood,
15 “Plaintiffs”) filed a shareholder derivative action on behalf of Nominal Defendant Marathon against
16 the same defendants named in the Hood Action alleging the same facts as the *Hood* Action and making
17 the same claims for violations of Section 14(a) of the Exchange Act and breaches of fiduciary duty
18 against the Defendants as the Hood Action, captioned *Konigsberg v. Thiel et al.*, Case No. 2:23-cv-
19 01075-CDS-DJA (the “*Konigsberg* Action,” and together with the *Hood* Action, the “Derivative
20 Actions”) (*Konigsberg* Action ECF No.1);

21 **WHEREAS**, under Fed. R. Civ. P. 42(a), when actions involve “a common question of law or
22 fact,” the Court may “(1) join for hearing or trial any or all matters at issue in the actions; (2)
23 consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay”;

24 **WHEREAS**, Plaintiffs and Defendants (the “Parties”) in the Derivative Actions agree that the
25 Derivative Actions are brought on behalf of the same corporation and challenge the same alleged
26 conduct by the same defendants and involve the same questions of law and fact, and that the
27 administration of justice would best be served by consolidating the Derivative Actions; and

28 **WHEREAS** this stipulation is not a waiver of any of the Parties’ right, remedies, claims or

defenses;

IT IS ACCORDINGLY STIPULATED AND AGREED by and between the Parties through their authorized attorneys, as follows:

1. The following actions (the “Related Derivative Actions”) are hereby consolidated for all purposes, including pre-trial proceedings and trial, under Case No.: 2:23-cv-01055-RFB-BNW (the “Consolidated Action”):

<u>Case Name</u>	<u>Case Number</u>	<u>Date Filed</u>
<i>Hood v. Thiel et al.,</i>	2:23-cv-01055-RFB-BNW	July 8, 2023
<i>Konigsberg v. Thiel et al.,</i>	2:23-cv-01075-CDS-DJA	July 12, 2023

2. Every pleading filed in the Consolidated Action, or in any separate action included herein, must bear the following caption:

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

IN RE MARATHON DIGITAL HOLDINGS, INC. DERIVATIVE LITIGATION	Lead Case No. 2:23-cv-01055-RFB-BNW
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This Document Relates to: ALL ACTIONS
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3. All papers filed in connection with the Consolidated Action will be maintained in one file under *In re Marathon Digital Holdings, Inc. Derivative Litigation*, Lead Case No. 2:23-cv-01055-RFB-BNW and all papers and documents previously filed and/or served in the Related Derivative Actions shall be deemed a part of the record in the Consolidated Action.

4. This Order shall apply to each shareholder derivative action arising out of the same, or substantially the same, transactions or events as the Consolidated Action, which is subsequently filed in, removed to, reassigned to, or transferred to this Court. When a shareholder derivative action that properly belongs as part of *In re Marathon Digital Holdings, Inc. Derivative Litigation*, Lead Case No. 2:23-cv-01055-RFB-BNW is hereafter filed in this Court, removed to this Court, reassigned to this Court, or transferred here from another court, this Court requests the assistance of counsel in

calling to the attention of the clerk of the Court the filing, removal, reassignment, or transfer of any case that might properly be consolidated as part of *In re Marathon Digital Holdings, Inc. Derivative Litigation* Lead Case No. 2:23-cv-01055-RFB-BNW, and counsel are to assist in assuring that counsel in subsequent actions receive notice of this Order. Unless otherwise ordered, the terms of all orders, rulings, and decisions in the Consolidated Action shall apply to all later substantially similar shareholder derivative actions filed in this Court, removed to this Court, reassigned to the Court, or transferred here from another court.

5. Within fourteen (14) days of consolidation and then selection of lead counsel for plaintiffs in the consolidated action, the Parties shall meet and confer and submit a proposed schedule for the filing of a consolidated complaint and answers, motions to dismiss, and/or other responses. Defendants and Nominal Defendants are not required to answer, move, or otherwise respond to the complaints filed in the Hood Action and the Konigsberg Action until the deadline set forth in the Court's order on the parties' proposed schedule.

6. This Stipulation is without prejudice to any and all claims or defenses that Plaintiff, Defendants, or the Nominal Defendant may assert.

Respectfully submitted,

Dated: July 28, 2023

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Dated: July 28, 2023

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Defendant Marathon Digital Holdings Inc.*

ORDER

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT JUDGE